

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

GARY E. HAWES,

Petitioner,

vs.

E.K. McDANIEL, *et al.*,

Respondents.

3:08-cv-00242-ECR-RAM

**ORDER**

This closed action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. By order filed July 7, 2011, this Court entered an order denying the petition and denying a certificate of appealability. (ECF No. 29). Judgment was entered on July 8, 2011. (ECF No. 30).

Petitioner filed a notice of appeal on July 22, 2011. (ECF No. 31). This Court processed the appeal, transmitting it to the Ninth Circuit Court of Appeals on July 25, 2011. (ECF No. 32).

On July 27, 2011, petitioner filed, in this Court, a motion for an extension of time to file a motion for a certificate of appealability. (ECF No. 34). If a district court denies a certificate of appealability, as this Court did, petitioner may seek a certificate of appealability from the Ninth Circuit Court of Appeals. *See* 28 U.S.C. § 2253(c)(1); *see United States v. Mikels*, 236 F.3d 550, 551-52 (9<sup>th</sup> Cir. 2001). Petitioner may file a motion for a certificate of appealability in the Ninth

1 Circuit Court of Appeals within 35 days of the entry of the district court's order denying the  
2 certificate of appealability. Ninth Circuit Rule 22-1(c). To the extent that petitioner seeks an  
3 extension of time to file a motion for a certificate of appealability, he must file his motion with the  
4 Ninth Circuit Court of Appeals, rather than with this Court.

5 **IT IS THEREFORE ORDERED** that this Court **DEFERS RULING** on petitioner's  
6 motion for an extension of time (ECF No. 34).

7 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL SEND** petitioner's motion  
8 for an extension of time (ECF No. 34) to the Ninth Circuit Court of Appeals, along with a copy of  
9 this order.

10 Dated this 2<sup>nd</sup> day of August, 2011.

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12 UNITED STATES DISTRICT JUDGE